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## THIRD CONFERENCE ON THE LAW OF THE SEA

PROVISIONAL

For participants only

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Second Session

FIRST COMMITTEE

### PROVISIONAL SUMMARY RECORD OF THE NINTH MEETING

Held at the Parque Central, Caracas  
on Tuesday, 30 July 1974, at 11.05 a.m.

Chairman:

Mr. ENGO

United Republic of Cameroon

Rapporteur:

Mr. MOTT

Australia

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Introduction of the Secretary-General's report contained in  
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REPORT BY THE CHAIRMAN OF THE INFORMAL MEETINGS

The CHAIRMAN said that, as had been indicated in the programme of work, he had arranged for the Chairman of the informal meetings to report to the Committee. The reports had been delayed somewhat because it had been felt that more definite ideas should be allowed to emerge.

Mr. PINTO (Sri Lanka) said that the Committee had held nine informal meetings since the beginning of its work. It had had before it the texts appearing in the report of the Sea-Bed Committee (A/9021, vol. II) illustrating areas of agreement and disagreement, prepared by Working Group 1 of the Sea-Bed Committee and relating, firstly, to the status, scope and basic provisions of the régime, based on the Declaration of Principles contained in General Assembly resolution 2749 (XXV), and, secondly, to the status, scope, functions and powers of the international machinery. It had been agreed at the outset that the Committee would adopt the following method of work: it would begin by reviewing the draft articles relating to the first of those two topics; upon completion of that review, the Chairman would submit to the Committee a list of the principal issues for discussion; finally, the Committee would decide whether to review the second topic or to begin detailed consideration of the principal issues. It had also been agreed that the Committee would use a technique adopted by Working Group 1 of the Sea-Bed Committee: if no conclusion could be reached after discussion of a particular text in the full Committee, the text would be considered by a smaller group consisting of those who had participated in the discussion and any other interested delegations, with a view to elaborating a text or texts that would faithfully reflect the opinion or opinions expressed in the Committee. The results of the smaller group's work would be placed before the Committee as a whole for consideration and approval and would then be reported to an official meeting of the Committee.

He was happy to report that the Committee in informal meetings had considered draft articles 2 to 21 (A/9021, vol. II, pp. 51-69) within a period of three working days, and had referred those articles to the smaller group for further consideration and report. There had been no discussion of article 1, because it had been felt that a final decision on the limits of the area would depend on the results of the discussion of limits in the Second Committee. The smaller group had not yet completed its consideration of articles 2 to 21, but was trying to reconcile opposed points of view and narrow differences of opinion so as to eliminate as many alternative formulations as possible

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and to arrive at a single text. Significant concessions had been made by several delegations; the number of alternative texts was being reduced. It was expected that the process would be completed and articles 2 to 21 placed before the full Committee in an informal meeting by Thursday, 1 August.

He had suggested to the Committee three issues that might be regarded as crucial and which ought to be the subject of detailed study. They were: (1) the system of exploration and exploitation: who might explore and exploit the area, (2) the conditions of exploration and exploitation; and (3) economic aspects of exploitation of the area. It had been agreed that those were the principal issues, although some representatives had pointed out that there were several other issues which members might consider important, such as the allocation of powers and functions to the various organs of the authority. It had also been agreed that the first issue would be given a certain priority, since many representatives had felt that the other issues were subsidiary and should be taken up at a later stage. Other representatives had not subscribed to that view and had maintained that it would not be possible to discuss each of the subjects in isolation. In their opinion, the first and second issues were inseparable. It had been agreed that although a certain priority would be accorded to the first issue, material and relevant reference could be made to the second and third issues, and that representatives could have considerable latitude in that respect, it being clearly understood that the second and third issues would be taken up subsequently.

Discussion of the first issue had proceeded on the basis of the four alternative texts of draft article 9 prepared by Working Group 1 of the Sea-Bed Committee. At the outset, the representative of Jamaica had proposed the text of two articles designed to raise several essential points for consideration in connexion with that and subsequent discussions. The first of those articles required that all activities of exploration and exploitation should be conducted pursuant to regulations promulgated by the authority and that no such exploration or exploitation should be carried out except under and in conformity with such regulations and the provisions of the Convention. The article then listed the categories of subjects on which the authority would promulgate regulations. The sponsor of the article had held that such regulations would ensure that the powers and functions of the authority would be exercised in accordance with fundamental norms enshrined in the Convention and, while giving a dominant and controlling position to the

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the devices that would be utilized to ensure the authority's control at all times over such activities. The representative of Jamaica had expressed the view that his proposal was not inconsistent with that of the Group of 77.

The Chairman of the Group of 77 had undertaken to prepare, in consultation with the members of that Group, a response to those important questions. It was hoped that that response would enable other representatives to appreciate more fully the nature and scope of the proposal and, most important, that it would set the stage for possible solutions and compromises on essential issues. The discussion was proceeding on the basis of alternatives A and D of Working Group 1, the text proposed by the Group of 77, and the relevant portions of the Jamaican proposal.

He believed that the Committee was at a momentous stage in its discussions; an opportunity missed could set it on a tragically wrong course and bring down on it the blame, if not the contempt, of generations to come. For the first time in seven years, the Conference was on the threshold of real negotiation and a possible breakthrough. Representatives bore a very heavy responsibility towards the millions of people they represented and the countless others who would seek to benefit in the future from the system the Conference was attempting to create. He was confident that representatives were determined to approach the task with the solemnity, vision and humility it required.

The CHAIRMAN said that the submission of alternative texts was essential for the negotiation of treaty articles. He did not share the view that the Conference had been convened to work out a declaration of principles; its task was to negotiate a treaty. He hoped that would be borne in mind during all discussions. He appealed to members to co-operate with the officers of the Committee and with the Chairman of the informal meetings, particularly on issues where the only course was to narrow the choice of texts. He hoped that if it was necessary to convene a further session, that would simply be to complete the work on agreed articles.

Mr. KASEMSRI (Thailand) proposed that the report by the Chairman of the informal meeting should be reproduced in extenso in the summary record.

It was so agreed.

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The first part of the report, a review of sea-bed mining activities, contained information collected by the Secretariat from technical journals, periodicals and company press releases, in the absence of more official material.

The second part was an analysis of the probable impact of nodule mining, undoubtedly one of the fundamental issues in the negotiations on the international régime and machinery for sea-bed resources. The nodule industry was still in its embryonic stage, however, and information from the groups developing mining and processing technology was not always complete. It had therefore been necessary to use a number of assumptions, which might well be revised once the systems under development had become operational. The figures in the report were merely indications of the magnitudes involved.

Metal production from nodules was a joint-product industry, the most important metals - nickel, copper, cobalt and manganese - being produced in more or less fixed proportions as determined by the nodule grade, and not in accordance with existing world demand. It had been estimated, on the basis of a number of assumptions, that by 1985 some 15 million tons of nodules might be mined and processed by the industry, resulting in a production of 920,000 tons of manganese, 220,000 tons of nickel, 200,000 tons of copper, 30,000 tons of cobalt and 38,000 tons of other metals. Cobalt production from nodules would amount to at least one half of projected world demand in 1985 and the likely impact would be substantial drops in price, affecting developing country exporters such as Zaire, Zambia, Cuba and Morocco. The impact might be even more serious if some of the cobalt-rich nodules of the South Pacific were exploited.

Estimates of the impact of nodule mining on manganese markets were uncertain; metallurgical recovery of manganese from nodules was complex and costly and so far only two groups had indicated plans to recover that metal. If manganese was recovered from only 4 million tons of nodules by 1985, production would amount to 13 per cent of the import requirements of the developed market-economy countries for that year. Given the inelastic nature of demand for manganese, the likely impact of sea-bed production would be to depress prices, thus reducing the export income of a number of developing countries.

Nickel was expected to be the mainstay of nodule operations and future expansion of the industry was likely to be, to some extent, self-regulated by the world nickel

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ambitious and far-reaching programme designed to stabilize the export earnings of their associate members in Africa, the Caribbean and the Pacific which were producers of primary commodities. The international authority should be empowered to participate in such comprehensive commodity arrangements and also to take more specific measures aimed at protecting the interests of developing countries that were exporters of minerals. Most of the debate on that issue had been between proponents respectively of compensatory and preventive measures. In the abstract, those two approaches seemed irreconcilable, but in practice the joint-product nature of metal production from nodules, with each of the four major metals being affected to a different degree by sea-bed mining, showed that the harmonization of all interests involved would probably require a combination of both. The preventive approach, in the form of long-term planning of nodule development, could form the backbone of a strategy to safeguard the basic interests of developing countries exporters of minerals. In addition, the world community could resort to some form of compensation to redress the hardship that might be imposed on the few countries that would not be sufficiently protected by the preventive measures.

The primary concern of delegates negotiating a régime for exploiting sea-bed resources in the international area was to find a just and equitable formula that would reconcile early use of the new technology for deep sea-bed mining with minimum disruption to developing countries. The report was intended to assist in the search for such a formula, which would put the common heritage of mankind to work for the benefit of all mankind with particular concern for those whose needs were greatest - the developing countries.

Mr. ILLANES (Chile) asked which developing countries would be affected by the exploitation of nodules and other sources of minerals in the international area, having regard to future changes in technology.

Mr. BRANCO (Secretariat) said that it would be a very considerable task to list all the developing countries affected by the exploitation of sea-bed resources. A distinction would have to be made between countries that would benefit from such exploitation and those that would be adversely affected. There was also the question which minerals would be recovered. The Secretary-General's report was concerned only with nodules, because they were the only sea-bed resource in the international area that

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(Mr. Kalondji Tshikala, Zaire)

His delegation wished to have the views of the Economic Affairs Officer on the powers of the international authority for the prevention of possible unfortunate results from sea-bed mining.

Mr. BRANCO (Secretariat) said that it was possible for the international community to ensure that the developing exporting countries would not be too seriously affected by sea-bed mining. The fact remained, however, that production from nodules would in no way, in the near future, be commensurate with existing demands. In the case of cobalt, the smallest nodule mining operation under consideration (1 million tons of nodules per year), could supply 9 per cent of world demand. The international community could limit nodule production to low levels in order to prevent pressures on prices but the future international sea-bed authority would have to decide which mineral or minerals should be protected by restricting nodule development. If it were not possible to prevent harmful effects to developing producing countries, then the only alternative would be compensatory measures.

Mr. FIGUEREDO (Venezuela) observed that the report of the Secretary-General stated that only 3 per cent of the ocean floor had been studied. It would therefore seem that there was as yet insufficient knowledge of the resources of the ocean floor. Their exploitation could have great repercussions on the economies of producing countries.

At present, it was known that manganese, nickel, cobalt and copper could be produced from nodules. In the light of rapidly advancing technology, his delegation wondered whether other minerals might also be produced from nodules in the future and, if so, how soon.

Mr. BRANCO (Secretariat) said that it was difficult to reply to the representative of Venezuela as regards the timing of the appearance on world markets of other minerals produced from nodules. Fifteen years ago, mineral production from nodules had been unheard of and, similarly, mining in the mid-ocean ridges might very well be conceivable 15 years hence.

The representative of Venezuela had raised one important aspect which should be kept in mind by the international community, namely, the rapid advance of technology. The coming decade could very well bring new technology with respect to metalized muds and oozes and the next century might very well see mining in the bed-rock of mid-ocean ridges.

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to the attention of the international community some decades before and the past decade had seen much research in methods for their recovery and processing. Copper, nickel, lead and zinc were to be found in considerable quantities in hot brines and metallized muds and it was felt that the technology for mining them was close to that of the hydro-lift type of nodule mining. In other words, it was possible to use a string of tubes and pumps to suck them from the sea-bed. Of course, those areas were limited and the hot brines and metallized muds were to be found only at specific points there. Furthermore, the suction of highly fluid sediments made it difficult to restrict the mining to the specific areas of highly metallized muds and brines. Those sediments were also to be found in Indonesia and in a number of places along the mid-ocean ridge. The Federal Republic of Germany and the United States of America seemed to be the most advanced countries in the technology for that type of mining.

Mr. CHAO (Singapore) observed that at the sixth meeting the representative of UNCTAD had stated that the revenue from sea-bed mining would not be enough to provide compensation to the producing developing countries. That left the alternative of the use of preventive measures through stabilization of prices. It appeared to his delegation that costs would therefore rise and, in that connexion, it should be pointed out that most developing countries were not producers but consumers of finished products. His delegation wished to know how non-producing developing countries could benefit without paying more for the finished product and how, at the same time, the interests of developing producing countries could be protected. Furthermore, the Economic Affairs Officer had stated that the impact of nodule production could become more serious after 1985. His delegation wished to know whether that impact would be increasingly serious or whether its seriousness would gradually diminish.

Mr. BRANCO (Secretariat) said that the first of the Singapore representative's questions was really the crux of the matter before the Committee. The Secretariat's studies had shown that a solution which might benefit most of the developing countries could be found, but sometimes solutions were more costly than the benefits they produced, and sometimes there was no willingness to use the instruments that would help to meet the desires of the groups concerned. To protect the developing raw material

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Mr. BRANCO (Secretariat) said that there were no precise figures concerning the comparative costs of sea-bed and land exploitation. In an industry where several metals were produced jointly it was difficult to determine which part of the total cost was applicable to each specific metal. There were various methods of economic analysis for apportioning the cost of joint production, the most common one being to assess costs in accordance with market strategy for competitive products. The information given in the Secretary-General's report was based on the industries' cost figures, which were strictly estimates, and might to some extent be optimistic in order to attract investors. The comprehensive figures for costs and revenues presented in the report would be only approximations until the sea-bed authority could tackle the problem and produce more definite figures.

With regard to the second question, the representative of Ghana was right in thinking that the nodule industry was only at the start of the learning curve: the first one or two operations would be costly, but the costs would be expected to fall with experience and with technological progress. While nothing was certain, it must be assumed that mineral production from nodules would become cheaper than mining on land: otherwise there would be no incentive for the expansion of the sea-bed mining industry.

Regarding future demand, he drew attention to table 6, on page 42 of the Secretary-General's report.

Mr. RATNER (United States of America) said he did not think that the present exchange of questions and answers - which seemed to be anticipating the seminar - was the most constructive way of proceeding in such a complex matter. There were more answers than one to each question and members should have the opportunity to hear other answers as well. The present discussion would be recorded and studied and full justice might not be done to an important subject and to all the interests represented in the Committee. He appealed to the Chairman to arrange for one or more further meetings of the Committee in which the fullest possible answers to the extremely important questions raised could be given and placed on record. He agreed with the Secretariat representative that the first question raised by the representative of Singapore was the crux of the matter.

He would like to ask whether, bearing in mind that higher prices for raw materials would mean higher prices for finished products needed by the developing countries, it was possible to calculate the cost of preventive or compensatory measures

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